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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/730,689	12/06/2000	Shamel A. Bersiek	D-2872CIP	9222

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EXAMINER
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RIOS CUEVAS, ROBERTO JOSE

ART UNIT	PAPER NUMBER
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2836

DATE MAILED: 04/16/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/730,689

Applicant(s)

BERSIEK, SHAMEL A.

Examiner

Roberto J Rios

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 19 February 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-10 and 12-25 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-10, and 12-25 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 26 March 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

**DETAILED ACTION**

***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1, 2, 4-15 and 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Baker et al (US patent 5,821,636) in view of Powerware 5140.

As per claim 1, Baker et al (herein after Baker) teaches an electrical power distribution unit comprising: a housing having no internal battery; an electrical power input assembly located substantially in the housing of the power distribution unit and adapted to be electrically connected to an electrical power supply; and a plurality of electrical power output assemblies electrically connected to the input assembly, and adapted to receive electrical power from the input assembly, the plurality of electrical power output assemblies including a plurality of receptacles adapted to receive an equipment plug to provide electrical power. Baker does not specifically disclose providing a plurality of output connections adapted to be hard-wired to a piece of equipment to provide electrical power. However, Powerware 5140 (PW5140 6000HW) teaches providing a plurality of electrical power output assemblies including a plurality of receptacles adapted to receive an equipment plug to provide electrical power and one output connection adapted to be hard-wired to a piece of equipment to provide electrical power (last page of brochure). Powerware 5140 does not specifically disclose providing

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a plurality of hardwired output connections. However, it is well settled that an invention is only entitled to a patent if the fusion of old elements creates a synergistic combination. It is difficult to conceive of a more obvious way of powering a plurality of hardwired loads than to provide a plurality of hardwired output connections, St. Regis Paper Co. v. Bemis Co., Inc., 193 USPQ 8, 11 (7<sup>th</sup> Cir. 1977).

It would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify the teachings of Baker with the teachings of Powerware 5140 such that the output assembly includes a plurality of hardwired connections for the purpose of providing power to a plurality of permanent loads.

As per claim 2, Baker teaches the housing being rack mountable.

As per claim 4, Baker teaches the power distribution unit but does not specifically disclose providing an electrical power meter. However, Powerware 5140 teaches a meter located within the housing and adapted to monitor at least one property of electrical power passing through the input assembly (user's guide page 37).

It would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify the teachings of Baker with the teachings of Powerware 5140 such that a meter is provided for the purpose providing a visually indicating a user of the power status.

As per claim 5, Baker teaches the power distribution unit coupled to an electrical power supply but does not specifically disclose a transformer in electrical communication with the power supply and the input assembly. However, the Examiner takes official notice that it is well known in the art to use an isolating/coupling

transformer to adjust the commercial power to a usable power voltage. The Examiner wants to point out that applicant has failed to seasonably traverse each and every official notice taken in the office action mailed on 05/07/2003. If applicant does not seasonably traverse the well-known statement during examination, then the object of the well-known statement is taken to be admitted prior art. *In re Chevenard*, 139 F.2d 71, 60 USPQ 239 (CCPA 1943). A seasonable challenge constitutes a demand for evidence made as soon as practicable during prosecution. Thus, applicant was charged with rebutting the well-known statement in the next reply (i.e., Response filed on 09/10/2003) after the Office action in which the well-known statement was made (i.e., non-final action mailed on 05/07/2003), MPEP § 2144.03.

It would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify the teachings of Baker such that a coupling transformer is used for the purpose of adjusting the commercial power to a usable voltage.

As per claims 6 and 7, Baker teaches the input assembly adapted to be electrically connected at least to a single phase electrical power supply (col. 3, line 13).

As per claim 8, Baker teaches each of the output assemblies including a different circuit breaker (Figure 1).

As per claim 9, Baker teaches a plurality of output receptacles but does not specifically disclose the plurality of electrical power output assemblies including a plurality of differently configured receptacles for accommodating differently configured equipment plugs. However, Powerware 5140 teaches a plurality of electrical power

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output assemblies including a plurality of differently configured receptacles for accommodating differently configured equipment plugs (last page of brochure).

It would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify the teachings of Baker with the teachings of Powerware 5140 such that the plurality of electrical power output assemblies includes a plurality of differently configured receptacles for the purpose of accommodating differently configured equipment plugs.

As per claim 10, Baker teaches the plurality of electrical output assemblies mounted in a circuit panel (Figure 2).

As per claim 12, Baker teaches a plurality of output receptacles but does not specifically disclose the plurality of electrical power output assemblies including a plurality of differently configured receptacles for accommodating differently configured equipment plugs. However, Powerware 5140 teaches a plurality of electrical power output assemblies including a plurality of differently configured receptacles for accommodating differently configured equipment plugs (last page of brochure).

It would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify the teachings of Baker with the teachings of Powerware 5140 such that the plurality of electrical power output assemblies includes a plurality of differently configured receptacles for the purpose of accommodating differently configured equipment plugs.

As per claim 13, Powerware 5140 teaches the Power distribution unit comprising hard-wired connections but does not specifically disclose providing at least 8 output

connections. However, the Examiner takes official notice that to provide multiple output connections is an engineering design choice based generally on the desired amount of loads to be powered. The Examiner wants to point out that applicant has failed to seasonably traverse each and every official notice taken in the office action mailed on 05/07/2003. If applicant does not seasonably traverse the well-known statement during examination, then the object of the well-known statement is taken to be admitted prior art. *In re Chevenard*, 139 F.2d 71, 60 USPQ 239 (CCPA 1943). A seasonable challenge constitutes a demand for evidence made as soon as practicable during prosecution. Thus, applicant was charged with rebutting the well-known statement in the next reply (i.e., Response filed on 09/10/2003) after the Office action in which the well-known statement was made (i.e., non-final action mailed on 05/07/2003), MPEP § 2144.03.

It would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify the teachings of Baker in view of Powerware 5140 such that multiple output connections are provided for the purpose of powering any desired amount of loads.

As per claim 14, Powerware 5140 teaches that at least 8 receptacles could be provided (user's guide page 43).

As per claim 15, Baker teaches a switch (12) structured and positioned to alternately connect and disconnect one of two or more electrical power supplies to the electrical power input assembly (Figure 1).

As per claim 25, Baker teaches the plurality of electrical power output assemblies being located substantially in the housing (Figure 2).

3. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Baker in view of Powerware 5140 as applied to claim 1 above, and further in view of Kozłowski et al (US patent 5,747,734).

As per claim 3, Baker teaches the power distribution unit but does not specifically disclose the housing including a front access door and a back access door. However, Kozłowski teaches a power distribution unit comprising front and back doors (Figure 12).

It would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify the teachings of Baker with the teachings of Kozłowski such that the housing includes a front access door and a back access door for the purpose of easily accessing the electrical connections and to protect said connections from any external influences.

4. Claims 16-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Baker in view of Powerware 5140 and Domigan (5,675,194).

As per claim 16, Baker teaches an electrical power distribution unit comprising: a rack mountable housing having no internal battery; an electrical power input assembly located substantially in the housing of the power distribution unit and adapted to be electrically connected to an electrical power supply; and a plurality of electrical power output assemblies located substantially in the housing, electrically connected to the input assembly, and adapted to receive electrical power from the input assembly. Baker



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does not specifically disclose the plurality of electrical power output assemblies including at least one output connection adapted to be hard-wired to a piece of equipment to provide electrical power. However, Powerware 5140 (PW5140 6000HW) teaches providing a plurality of electrical power output assemblies including at least one receptacle adapted to receive an equipment plug to provide electrical power and at least one output connection adapted to be hard-wired to a piece of equipment to provide electrical power (last page of brochure).

It would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify the teachings of Baker with the teachings of Powerware 5140 such that the output assembly includes at least one hardwired connection for the purpose of providing power to a permanent load.

Baker teaches a power distribution unit but does not specifically disclose at least one of output connection structured to be connected to a second electrical power distribution unit. However, Domigan teaches an electrical power distribution system comprising a plurality of interconnected power distribution units (Figures 1-3, 5).

It would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify the teachings of Baker with the teachings of Domigan such that a plurality of power distribution units are interconnected for the purpose of providing a modular power distribution system through a structure such as a building.

As per claim 17, Baker teaches the housing adapted to be mounted on a 19-inch rack.

As per claim 18, Baker teaches the power distribution unit but does not specifically disclose providing an electrical power meter. However, Powerware 5140 teaches a meter located within the housing and adapted to monitor at least one property of electrical power passing through the input assembly (user's guide page 37).

It would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify the teachings of Baker with the teachings of Powerware 5140 such that a meter is provided for the purpose providing a visually indicating a user of the power status.

As per claim 19, Baker teaches each of the output assemblies includes a different circuit breaker (Figure 1).

As per claim 20, Baker teaches a switch (12) structured and positioned to alternately connect and disconnect one of two or more electrical power supplies to the electrical power input assembly (Figure 1).

As per claim 21, Baker teaches an electrical power distribution unit comprising: a housing having no internal battery; an electrical power input assembly located substantially in the housing and adapted to be electrically connected to an electrical power supply; and a plurality of electrical power output assemblies located substantially in the housing, electrically connected to the input assembly, and adapted to receive electrical power from the input assembly, the plurality of electrical power output assemblies including at least one receptacle adapted to receive an equipment plug and to provide electrical power (Figures 1, 2). Baker does not specifically disclose at least one output connection adapted to be hard-wired to a piece of equipment to provide

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electrical power. However, Powerware 5140 (PW5140 6000HW) teaches providing a plurality of electrical power output assemblies including at least one receptacle adapted to receive an equipment plug to provide electrical power and at least one output connection adapted to be hardwired to a piece of equipment to provide electrical power (last page of brochure).

It would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify the teachings of Baker with the teachings of Powerware 5140 such that the output assembly includes at least one hardwired connection for the purpose of providing power to a permanent load.

Baker teaches a power distribution unit but does not specifically disclose a plurality of interconnected electrical power distribution units. However, Domigan teaches an electrical power distribution system comprising a plurality of interconnected power distribution units (Figures 1-3, 5).

It would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify the teachings of Baker with the teachings of Domigan such that a plurality of power distribution units are interconnected for the purpose of providing a modular power distribution system through a structure such as a building.

As per claim 22, Baker teaches the power distribution unit but does not specifically disclose providing an electrical power meter. However, Powerware 5140 teaches a meter located within the housing and adapted to monitor at least one property of electrical power passing through the input assembly (user's guide page 37).

It would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify the teachings of Baker with the teachings of Powerware 5140 such that a meter is provided for the purpose providing a visually indicating a user of the power status.

As per claim 23, Baker teaches a switch (12) structured and positioned to alternately connect and disconnect one of two or more electrical power supplies to the electrical power input assembly (Figure 1).

As per claim 24, Baker teaches the plurality of electrical power output assemblies located substantially in the housing (Figure 2).

### ***Response to Arguments***

5. Applicant's arguments with respect to claims 1-10 and 12-25 have been considered but are moot in view of the new ground(s) of rejection. However, the Examiner wants to clarify his position.

In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves ***or in the knowledge generally available to one of ordinary skill in the art***. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, Baker clearly teaches providing output power to a plurality of pluggable loads. Powerware 5140 provides output power to a plurality of pluggable loads too. In addition, Powerware 5140

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provides a terminal output block to provide power to a hardwired load. Moreover, power distribution units that include a plurality of hardwired outputs are well known in the art as admitted by applicant in page 1, line 12 of the specification. The teaching of distributing power through a receptacle/plug arrangement is well known. The teaching of distributing power through a hardwired arrangement is also well known. The teaching of distributing power through a dual receptacle/plug and hardwired arrangement in a single power output assembly is clearly addressed by Powerware 5140. Thus, it would have been obvious to one of ordinary skill in the art at the time the invention was made based on the teachings of Powerware 5140 and the knowledge generally available to one of ordinary skill in the art to provide Baker's power distribution unit with a dual receptacle/plug and hardwired arrangement.

Applicant argues that the combination of references teaches away from the present invention. The Examiner respectfully disagrees. A UPS in its most reasonable interpretation is considered to be a unit that distributes incoming power to at least one load, with the added benefit of providing backup power and in some cases power regulation. In fact, applicant validates the Examiner's argument by disclosing that a power distribution unit could be implemented as a UPS by adding to the input assembly a switch (38) configured to monitor the power and switch from one power source to another (Figure 2; page 8, line 7). In this case, Baker clearly teaches providing output power to a plurality of pluggable loads, Powerware 5140 clearly teaches that power could be distributed from a single output assembly to pluggable loads, hardwired loads or both and Applicant's Admitted Prior Art teaches that power distribution units including

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a plurality of hardwired outputs are well known in the art. Thus, applicant's argument that one of ordinary skill in the art would not be motivated to combine the teachings of Powerware 5140 for a UPS with the teachings of Baker for a PDU for any purpose is found to be not persuasive and contradictory in view of Applicant's embodiment shown in Figure 2. Applicant's definition of a "UPS" submitted in the last response has been considered but found not persuasive at least for the reasons above.

Even *arguendo*, that the combination of the conflicting references teaches away from the invention, a prior art reference that "teaches away" from the claimed invention is a significant factor to be considered in determining obviousness; however, "the nature of the teaching is highly relevant and must be weighed in substance", *In re Gurley*, 27 F.3d 551, 554, 31 USPQ2d 1130, 1132 (Fed. Cir. 1994). Powerware 5140 recognizes the need or desire in the power distribution art of a hardwired connection to a stationary load in a pluggable load environment. Powerware 5140 discloses an optional "power distribution unit" comprising receptacles but the Examiner was unable to find a specific teaching regarding the undesirability and exclusion of hardwired outputs in a power distribution unit.

In response to applicant's argument that Powerware 5140 is nonanalogous art, it has been held that a prior art reference must either be in the field of applicant's endeavor or, if not, then be reasonably pertinent to the particular problem with which the applicant was concerned, in order to be relied upon as a basis for rejection of the claimed invention. See *In re Oetiker*, 977 F.2d 1443, 24 USPQ2d 1443 (Fed. Cir. 1992). In this case, as previously explained, Powerware 5140 recognizes the need or

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desire in the power distribution art of a hardwired connection to a stationary load in a pluggable load environment. Moreover, it has been held that a solution to a problem would be obvious from the prior art if it contains the same solution for a similar problem, *In re Wiseman*, 596 F.2d, 1022, 201 USPQ, 661.

In response to applicant's argument that the combination of Baker and Powerware 5140 would require a complete dismantling, disassembling, and reconfiguring to make the UPS of Powerware 5140 into a power distribution system having no internal battery, the test for obviousness is not whether the features of a secondary reference may be bodily incorporated into the structure of the primary reference; nor is it that the claimed invention must be expressly suggested in any one or all of the references. Rather, the test is what the combined teachings of the references would have suggested to those of ordinary skill in the art. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981).

6. Art of general nature relating to power distribution has been cited for applicant's review.

### **Communication with PTO**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Roberto Rios whose telephone number is (571) 272-2056. In the event that Examiner Rios cannot be reached, his supervisor, Brian Sircus may be contacted at (571) 272-2800, ext. 36. The fax number for Before-Final communications and After-Final communications is (703) 872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



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